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HUMAN RIGHTS COMMITTEE

Thirty-eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE
970th MEETING

Held at Headquarters, New York,
on Friday, 30 March 1990, at 3 p.m.

Chairman: Mr. LALLAH

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* The summary record of the second part (closed) of the meeting appears in document CCPR/C/SR.970/Add.1.

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The public meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Second periodic report of the Dominican Republic (continued) (CCPR/C/32/Add.16)

1. At the invitation of the Chairman, Mr. Dipp Gómez and Mrs. de Polanco (Dominican Republic) took places at the Committee table.

2. Mr. AGUILAR URBINA said that the report was incomplete and failed to address a number of questions which had been raised when the initial report had been presented. He agreed with Mr. Pocar that because it did not include the content of Dominican laws, the report implied that those laws were broader than might actually be the case. Neither did the report clarify seeming discrepancies with the provisions of the Covenant. Of particular concern were certain "anachronisms" in Dominican life - carryovers from an earlier, tragic era in the country's history - which were no longer of any relevance.

3. Mr. WAKO said that while the second periodic report discussed legislative provisions in greater depth than the first, the Committee still had no clear picture of what life was really like in the Dominican Republic. Perhaps the situation was not as serious as the Committee might be led to believe, but without more information, that could not be determined. It seemed that there had been a genuine improvement in the situation of women in the Dominican Republic, and in the legislation protecting their rights. He noted that more girls than boys were enrolled in high schools - and perhaps at universities - and there were women members of the judiciary, and even in the cabinet, for the Attorney General was a woman. The delegation's acknowledgement that its report was inadequate, and its readiness to heed the Committee's comments for the preparation of its third report were reassuring.

4. Efforts must be made to ensure that aliens, particularly Haitians, enjoyed all the rights stipulated in the Covenant. Measures must be taken in order to ensure that law-enforcement agencies did not exceed their authority in attempting to control the rising incidence of drug trafficking and criminality, a result of the country's adverse economic situation. The backlog of cases before the courts and the independence of the judiciary were a source of concern. He was encouraged by the proposal to appoint the judiciary by a National Council on which the national bar association would be represented, and hoped that the measure would be adopted in the near future. The building of more prison cells would, doubtless, facilitate the separation of juveniles from adults and increasingly focus attention on rehabilitation, in accordance with the Covenant.

5. Mr. COORAY expressed the hope that the third periodic report of the Dominican Republic would contain information on the remedies available to aliens, particularly the Haitian sugar-cane workers, when their rights under the Covenant were violated; the independence of the judiciary, their tenure, salaries and

emoluments; and the status of the bill providing for the appointment of judges by the Supreme Court and a National Council to be established. Measures should be taken to protect workers against anti-union discrimination by employers and employers' acts of interference in workers' associations. It seemed that there might be a discrepancy between section 55 of the Labour Code with respect to agricultural workers and article 22 of the Covenant.

6. Mr. NDIAYE urged the reporting country to provide more specific information in its third periodic report. A report should serve as a basis for answering specific questions from the Committee, and one which consisted merely of excerpts from the Constitution, a copy of which was already before the Committee, was not sufficient. Furthermore, such details should be incorporated during the preparation phase, with input from national experts, and not after the fact in the introduction to the report. The existence of what amounted to a modern-day form of slavery and other archaic practices, such as servitude or inhuman treatment of workers, was disturbing. A State party which acceded to human rights instruments must make a genuine attempt to implement them. Lastly, certain aspects of Dominican legislation with regard to the judiciary and the situation of detainees should be seriously reviewed in the light of the Covenant.

7. Mr. WENNERGREN said that both the report and the answers to the Committee's questions had been too general. The Government had yet to make a serious effort to adapt its penal system, labour code and legislation to the requirements of the Covenant. It was to be hoped that the third periodic report would reflect a legal system free of obsolete provisions, one which had been updated in the light of the Covenant.

8. Ms. CHANET said that development problems and sharing an island with another country did not justify the failure to enforce certain fundamental rights. The situation of Haitian workers, whom dire poverty had forced to emigrate, was contrary to articles 6, 7, 8, 22 and 27 of the Covenant. Like Mr. Pocar, she found the law to be general in nature, leaving the authorities a great deal of latitude to decide restrictions. She was concerned that even the implementation of promised reforms might not guarantee the independence of the judiciary. The progress achieved in the situation of women was, however, encouraging. It was to be hoped that the third period report would not merely enumerate the articles of the Constitution, but rather provide the text of Dominican laws and explain how they were implemented in reality.

9. Mrs. HIGGINS said that by virtue of its free press, and freedom of religion and freedom of speech, the Dominican Republic gave the appearance of a tolerant society, but its report more or less aroused significant concern. Admittedly, illegal immigration invited the exploitation of workers, but the Government should actively monitor private employers in order to discourage any idea that such exploitation was condoned. Similarly, the responsibility of eliminating child labour could not be left solely to employers. She had lingering questions concerning preventive detention, and particularly the period of detention. The Dominican representative had indicated that only one category of person was placed

(Mrs. Higgins)

in preventive detention, but article 9 referred to two categories - untried prisoners and preventive detainees. On the subject of preventive detention, as in many other instances, the delegation had replied to questions by maintaining that laws which seemed to be at variance with the Covenant were, in reality, not enforced. The labour code must be brought into conformity with the Dominican situation and the provisions of the Covenant. The legal and real disadvantages suffered by children born out of wedlock constituted a violation of article 2 (1). Lastly, she was concerned that the Senate appointment system did not truly guarantee an independent judiciary. In that connection, the bill to ensure greater continuity in the judiciary was a promising sign.

10. Mr. MAVROMMATIS suggested that many antiquated provisions of Dominican law could be amended on the basis of a fresh comparative study between the reporting country's obligations under the Covenant and its existing legislation and practice. Election of judges by the Senate was not objectionable in itself, but the practice of renewing the entire legislature at regular intervals must be seriously reassessed. Measures must be taken to remedy the situation of Haitian workers - which was essentially a problem of cheap labour - and to guarantee them the enjoyment of the benefits accorded to workers hired locally. Instances of treatment which bordered on slavery must be eliminated.

11. Mr. ANDO, while acknowledging that the problem of the Haitian workers was, to some extent, a legacy of colonial domination, said that attention must be focused on their situation. The Dominican Republic could submit a greatly improved third periodic report by providing data and referring to legislative provisions, administrative regulations, original jurisprudence and concrete cases. He was particularly concerned about the questions of detainees and prison conditions, the independence of the judiciary and trade unions, and hoped that they would be dealt with in a continuing dialogue between the Committee and the reporting country.

12. Mr. DIMITRIJEVIĆ endorsed the views expressed by the previous speakers. The Committee needed much more information on the human rights situation in the Dominican Republic and neither the report nor the country's representatives had satisfied its curiosity. The report concentrated on the country's laws, and when questions were raised about them, the representatives said that the laws were never applied. The next report should include social and political information so as to set the legal information in a meaningful context. Much concern had been raised in the international community about the situation of the Haitians in the Dominican Republic and those concerns could not be met with mere denials or subjective impressions. Statistics must also be provided. He hoped that the next report would be more substantial.

13. The CHAIRMAN noted that the Dominican Republic's initial report had failed to comply with the Committee's guidelines and that the second report had failed to address the questions not answered in the initial report. A number of questions had not been raised in the consideration of the second report, because they had already been asked during the consideration of the first one. He therefore urged

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(The Chairman)

the preparers of the third periodic report to take those points into consideration, to consult the relevant summary records of the Committee and the Committee's general comments on individual articles and to follow the prescribed guidelines.

14. In connection with the Optional Protocol, many members had referred to a specific case on which the Committee had submitted its views to the State party, and when asked what measures the State party had subsequently taken the answer had been that it was the author's responsibility to inform the Committee of the settlement. That was unacceptable. The State party itself must inform the Committee of the settlement in writing so as to enable it to draw attention in its annual report to the fact that the State party had acted on its views.

15. Mr. DIPP GOMEZ (Dominican Republic) said that his delegation had tried to provide the Committee with all the information it required and would take its criticism into account in order to produce a better report the next time. His country was a State of law, albeit not a perfect one, and its extensive and democratic media kept the world informed of events in the country. The Committee comments would be reflected in the next report.

The public meeting rose at 4.10 p.m.